

In the  
Indiana Supreme Court

<b>STATE OF INDIANA</b>	)	<b>Supreme Court No. 05S00-0503-SJ-69</b>
	)	
<b>vs.</b>	)	
	)	
<b>T. ERIC EVANS and WESTERN</b>	)	<b>Case No. 05C01-0202-CC-25</b>
<b>SURETY COMPANY</b>	)	<b>in the Blackford Circuit Court</b>

**ORDER REMANDING JURISDICTION TO TRIAL COURT**

Comes now the Clerk of the Delaware Circuit Court, pursuant to Joint Local Rule Number Seven of Administrative District Six and Ind.Trial Rule 79(H), and certifies this matter here for the appointment of a special judge.

And this Court, being duly advised, now finds that jurisdiction of this matter should be remanded to the Blackford Circuit Court and Judge Jay L. Toney. The Chronological Case Summary shows that on January 11, 2005, pursuant to local rule, the Delaware County clerk appointed Judge Toney as special judge in this case. Trial Rule 79(H) provides that a person appointed under a local rule must accept jurisdiction unless the appointed special judge is disqualified, ineligible or excused from service. Therefore, Judge Toney's refusal on January 17, 2005 to accept the appointment is not permitted by Ind.Trial Rule 79(H).

IT IS, THEREFORE, ORDERED that jurisdiction of this matter should be remanded to the Blackford Circuit Court and Judge Jay L. Toney.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Bruce C. Bade, Blackford Circuit Court, 110 West Washington Street, Hartford City, IN 47348-2251; the Hon. Jay L. Toney, Randolph Circuit Court, 100 South Main Street, Winchester, IN 47394-1888; the Clerk of the Blackford Circuit Court; and to the Clerk of the Delaware Circuit Court.

The Clerk of the Blackford Circuit Court is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this \_\_\_\_\_ day of March, 2005.

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Randall T. Shepard  
Chief Justice of Indiana